IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7117 OF 2007

Shyambali Dhondu Choudhari..... ... Petitioner.

Versus

The State of Maharashtra & Ors..... Respondents.

Mr.A.V.Anturkar i/by Mr. S. B. Deshmukh
for the Petitioner.
Ms. V. Mhaispurkar, AGP for Respondent Nos.1 to 3.
Mr. S.G.Karandikar for Respondent No.27.

CORAM : S.C.DHARMADHIKARI, J.

DATED : 19TH DECEMBER, 2007.

P.C.:

This writ petition challenges an order, which is passed by the Additional Commissioner on the basis that the petitioner before him could not satisfy the first condition of the ownership of the land by a tribal. Naturally, therefore, the second question which was posed could not have been answered in favour of the present petitioner.

2. In my view, if the petitioner is relying upon a certificate, a copy of which is annexed at page 60 of the paper book, then it is for him to approach the appropriate authority and prove that he or his predecessor in title were cultivating the land before

the Tiller’s day and, therefore, are entitled to protection of Tenancy Act. In case the petitioner is not able to prove so, he will have to approach the competent civil court. Either remedy can be availed of and needless to state that whenever availed of, the authority concerned would decide the dispute without being influenced by the impugned order but on its own merits in accordance with law.

3. Needless to further clarify that if the petitioner succeeds in such proceedings, it would be open for him to approach the authority concerned to give effect to the orders in his favour.

4. Writ Petition is disposed of, accordingly, with no order as to costs.

Sd/-

(S.C.DHARMADHIKARI, J.)